BDB:SSD

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RYAN TORKINGTON,	:
	:
Plaintiff	:
	:
v.	:
	:
FEDERAL BUREAU OF INVESTIGATION, PLAYERS INDUSTRIES, and SEAN OLSEWSKI	:
	:
Defendants	:

DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION

Bruce D. Brandler, United States Attorney for the Middle District of Pennsylvania, by Samuel S. Dalke, Assistant United States Attorney, on behalf of defendants Federal Bureau of Investigation, Players Industries and Sean Olsewski ("Defendants"), hereby gives notice of the removal of the above-captioned matter from the Court of Common Pleas for Monroe County, Pennsylvania, to this Court, under the provisions of 28 U.S.C. §§ 1441 and 2679, and states as follows:

1. On or about August 19, 2016, Plaintiff Ryan Torkington ("Plaintiff") filed a writ of summons in the Court of Common Pleas for Monroe County, Pennsylvania, No. 5842 CV 2016 (the "State Action"), against the Defendants. *See* Exhibit "A" hereto.

2. In addition to filing the State Action, on September 1, 2016, Plaintiff filed a separate federal action against the same Defendants in the Middle District of Pennsylvania, captioned *Torkington v. Olsewski et al.*, No. 3:16-CV-1817 (Judge Mariani) (the "Federal Action").

3. Claims against any agency of the United States and/or federal employee for any act under color of office may be removed from state court to the district court of the United States for the district and division embracing the place wherein it is pending. 28 U.S.C. § 1442(a)(1).

4. Pursuant to the Westfall Act, codified at 28 U.S.C. § 2679, upon certification "that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose," the State Action "shall be removed without bond at any time before trial" to the Middle District of Pennsylvania. 28 U.S.C. § 2679(d).

5. Certification required for removal under the Westfall Act is attached hereto as Exhibit "D".

6. Pursuant to 28 U.S.C. § 1446, copies of all process, pleadings and orders served in the State Action are attached hereto as Exhibits "A" to "C".

7. Notice of Removal of this action will be provided to the Prothonotary of the Court of Common Pleas of Monroe County this day, April 10, 2017.

WHEREFORE, the Defendants respectfully give notice that the above-captioned matter is removed to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1442(a)(1) and 2679(d).

Respectfully submitted,

BRUCE D. BRANDLER
United States Attorney

s/ Samuel S. Dalke
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Date: April 10, 2017

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RYAN TORKINGTON,	:
Plaintiff	:
	:
v.	:
	:
FEDERAL BUREAU OF INVESTIGATION, PLAYERS INDUSTRIES, and SEAN OLSEWSKI	:
Defendants	:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on this 10th day of April 2017, he served a copy of the foregoing

DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION

by placing a copy in a postpaid envelope addressed to the persons hereinafter named, at the places and addresses stated below, which is the last known addresses, and by depositing said envelopes and contents in the United States Mail at Harrisburg, Pennsylvania:

Kevin P. Foley
The Foley Law Firm
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Scranton, PA 18503-1108
kpf@foleylawfirm.com

/s/ Samuel S. Dalke
SAMUEL S. DALKE
Assistant U.S. Attorney